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Fisheries and Oceans
Canada

Pêches et Océans
Canada

Deputy Minister

Sous-ministre

UNCLASSIFIED
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EKME #: 4037272

MEMORANDUM FOR THE MINISTER

**PULP MILL IN NOVA SCOTIA
(FOR INFORMATION)**

SUMMARY

The purpose of this memorandum is to inform you of the current status of Northern Pulp Nova Scotia's (NPNS's) plan for the construction of a new effluent treatment facility, which will involve the construction of a new submerged pipe and associated marine outfall.

The project has met with resistance from Indigenous communities, fish harvesters, the Province of Prince Edward Island, and other groups.

On March 29, the Nova Scotia Minister of Environment released her decision on the Northern Pulp Nova Scotia Environmental Assessment which stated that the assessment was incomplete and the proponent is required to provide additional detailed information in the form of a focus report.

The Canadian Environmental Assessment Agency (CEAA) has received numerous requests for the project to be designated for a federal EA. The CEAA is in the process of reviewing the proposed project to determine whether to recommend a federal EA process. [REDACTED]

DFO requires additional information from the proponent in order to determine whether the project will require a *Fisheries Act* authorization to proceed. DFO program staff will continue to provide expert advice to other government departments during the environmental assessment (EA) review and Indigenous consultations associated with the project.

BACKGROUND

NPNS operates a kraft (paper) mill located in Abercrombie Point, New Glasgow, Nova Scotia. The Nova Scotia Government initially agreed to build and operate a treatment facility for the mill's process effluent. In 1995, the system was refurbished to meet newly introduced legislation under Environment and Climate Change Canada's (ECCC's) *Pulp and Paper Regulations*, under Section 36 of the *Fisheries Act*.

The regulation of the effluent from the mill is under Section 36 of the *Fisheries Act*. This Section is intended to control the deposition of deleterious substances affecting fish, fish habitat or the

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use of fish, and is therefore of interest to DFO, ECCC, and Health Canada (HC) in fulfilling their respective mandates; however, the administration and enforcement of Subsections 36(3) to 36(6) of the *Fisheries Act* is led by ECCC, with support, cooperation, and communication with DFO and HC, as appropriate.

In May 2015, the Province of Nova Scotia enacted the *Boat Harbour Act*, a result of which is that the use of the provincially-owned treatment facility for the treatment of effluent from the mill will not be permitted past January 30, 2020. To be in compliance with the *Boat Harbour Act*, NPNS intends to install a new effluent treatment system that will involve the construction of a new submerged pipe and associated marine outfall to be located in the Northumberland Strait.

In May 2017, DFO received a *Request for Review* application from NPNS for the construction of a new submerged pipe. Upon DFO's initial review of the application, it was determined that there was missing information; as such, the application was considered incomplete. DFO is still awaiting additional information from the proponent, including a habitat survey and detailed pipeline construction methodology, in order to complete the review and determine whether the project will require a *Fisheries Act* authorization to proceed.

If a *Fisheries Act* authorization is required, DFO will have 60 days under regulations to review an application and determine whether it is complete. Once an application is deemed complete, DFO has 90 days to either issue an authorization or reject the application if the serious harm to fish is unacceptable. A number of factors may pause the process (i.e. stop the clock on issuing an authorization), including federal EA and Indigenous consultations.

The project is currently undergoing a provincial Class 1 EA process that was registered on the Nova Scotia Environmental Assessment website on February 7, 2019 with a request for public comments by March 9, 2019. DFO reviewed the document and provided expert advice to Nova Scotia Environment on March 9, 2019. The advice noted that there are information gaps in the document that DFO will require in order to complete our review such as detailed benthic habitat information in the pipeline route, mitigation measures, construction methodology and timelines.

A 1993 agreement between the federal government and Pictou Landing First Nation (PLFN) on the management of the Boat Harbour Treatment area requires the federal government to involve and keep fully informed PLFN on any negotiations and/or discussions held by the federal government with NPNS. In keeping with this agreement, DFO and other federal departments have shared their comments on the provincial EA with PLFN.

On Friday, March 29, the Nova Scotia Minister of Environment released her decision on the NPNS EA. The decision was that the EA was incomplete and NPNS is required to provide additional detailed information in the form of a focus report. This report will fill in some of the gaps in the EA in order for the minister to make her final decision on the project. The focus report is expected to examine potential impacts of the project and include information on the pipeline location, facility design, construction, operation and maintenance; water resources and sediment quality; air quality; fish and fish habitat; flora and fauna; human health; archaeology; Mi'kmaq land uses; and engagement with the public, Mi'kmaq, and government. Information provided for the focus report will also likely address DFO's information requirements for the regulatory review. The province has committed to providing the proponent with terms of reference to help guide them in providing the additional information needed, and in drafting the

focus report. From there, it could be up to an additional 12 months before the province renders a decision; this could require an extension on compliance with the January 2020 direction under the *Boat Harbour Act*. As this is time line is under provincial jurisdiction, the Department will continue to monitor this situation and offer expert advice as appropriate.

STRATEGIC CONSIDERATIONS

The new proposed effluent pipe route travels across land for approximately 11 kilometres then approximately 4 kilometres out into the Northumberland Strait adjacent to the Prince Edward Island ferry route. It is probable that the marine portion of the effluent pipe construction will travel through, and discharge inside the Scallop Buffer Zone (SBZ) Marine Refuge (see Attachment 1 for maps of the SBZ). The SBZ forms part of the DFO Gulf Region's measures that will contribute to Canada's Marine Conservation Targets. The conservation objective of the Marine Refuge is to protect juvenile lobster habitat by restricting scallop dragging. If a new activity is permitted and later deemed incompatible with the stated conservation objectives, loss of status may occur, in whole or in part. DFO will carefully assess the potential impacts to this physical habitat as part of the regulatory review process.

On March 14, there was a senior management level meeting between the federal departments involved in the review of the NPNS effluent treatment facility project. One of the outcomes of the meeting was to express the importance of working together and to ensure that there is coordination with respect to Indigenous consultation. At this meeting, a suggestion was made to establish a federal Task Force, which would provide ongoing support and keep lines of communication between departments open.

The Canadian Environmental Assessment Agency (CEAA) has received numerous requests for the project to be designated for a federal EA. The CEAA is in the process of reviewing the proposed project to determine whether to recommend a federal EA process. [REDACTED]

[REDACTED] In the event the project is not designated, an Environmental Effects Determination will need to be completed in relation to the federal lands under Section 67 of the *Canadian Environmental Assessment Act*.

NEXT STEPS

DFO will continue to provide expert advice to the proponent and other government departments on the aquatic environment through the EA process, and will make regulatory decisions on the physical impacts of the project.

DFO staff will be coordinating with ECCC and other federal agencies in anticipation of further requests coming from Nova Scotia Environment related to fish and fish habitat. When NPNS submits the information requested by Nova Scotia Environment in the focus report, DFO will respond on matters related to our mandate and provide support to other federal government departments such as ECCC on matters related to potential effluent impacts on fish and fish habitat.

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DFO will also continue to work with other federal departments on meeting any federal EA requirements (full federal EA or Section 67 assessment).

Tim Sargent

Timothy Sargent
Deputy Minister

APR 08 2019

Kevin Stringer
Associate Deputy Minister

Attachments

- 1) Maps and Information on Scallop Buffer Zones (SFA 21,22,24)

Fisheries and Oceans Canada[Home](#) → [Oceans](#) → [Areas of Interest, MPAs, Other Measures](#) → [OEABCM](#) → [List of marine refuges](#)

Scallop Buffer Zones (SFA 21, 22, 24)

Location

Estuary and Gulf of St. Lawrence Bioregion (New Brunswick, Prince Edward Island and Nova Scotia)

Approximate Size (km²) contribution to Marine Conservation Targets

5,835 km²

Approximate % coverage contribution to Marine Conservation Targets

0.10%

Conservation Objective

Protect juvenile lobster habitat

Ecological Components of Interest

Species of regional importance: juvenile American lobster

- **Why It Is Important:** American lobster is a commercially important species.

Habitat that is important to biodiversity conservation: American lobster nursery habitat

- **Why it is important:** American lobster nursery habitat is important for the life-cycle of the species.

Prohibitions

The ecological components of interest are effectively conserved through the following prohibitions:

Scallop dragging.

Other Considerations

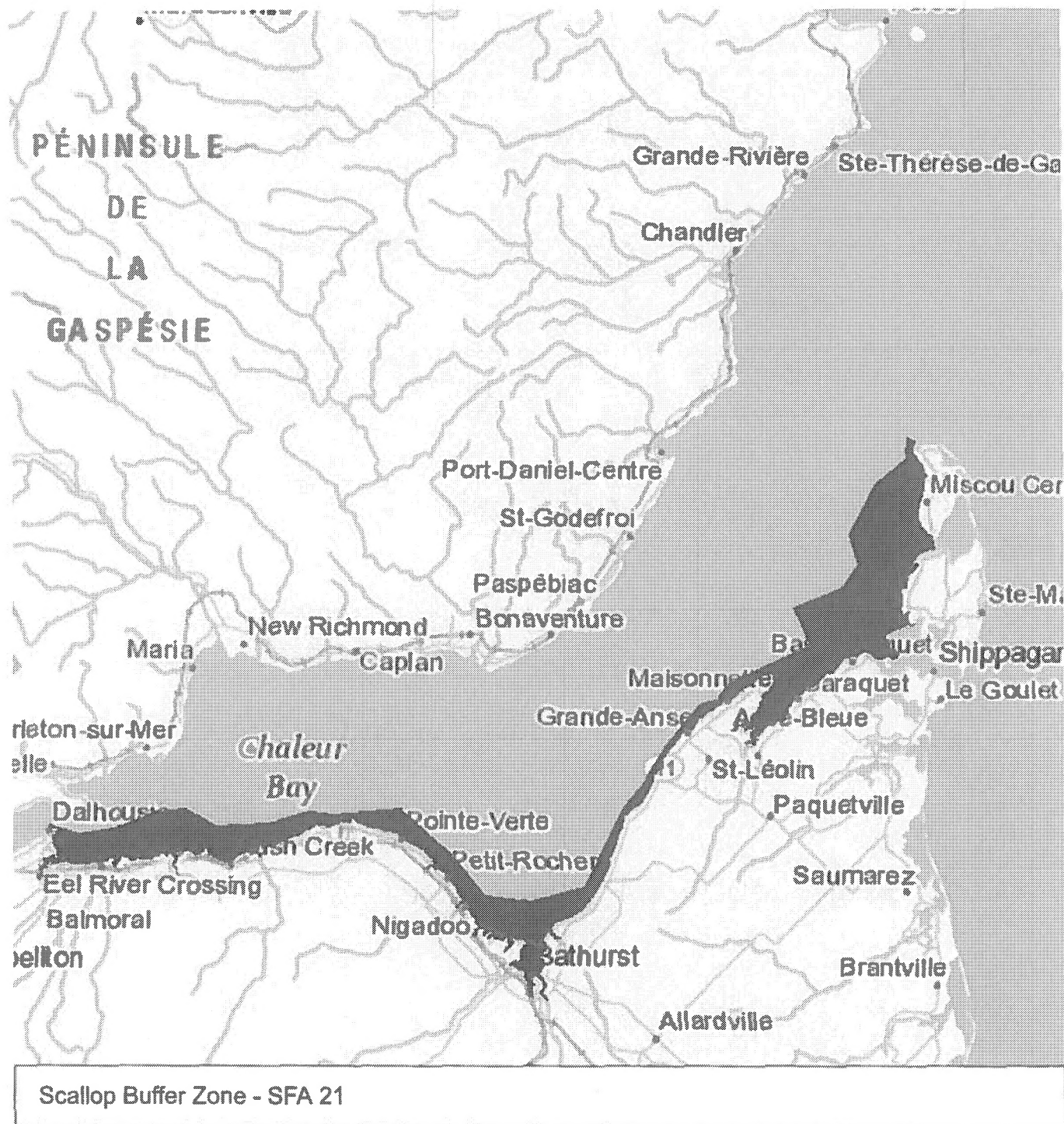
No human activities that are incompatible with the conservation of the ecological components of interest may occur or be foreseeable within the area.

4/3/2019

Scallop Buffer Zones (SFA 21, 22, 24)

Environmental Context

These closures offer protection to other important species and habitats in the southern Gulf of St. Lawrence. For example, SFA 22 contains the last remaining area in which the winter skate (a population under the endangered designation by COSEWIC) is found during the summer. It also includes a unique population of lady crab (suspected to be endemic to the region), and the rock crab (an important prey for several species and a commercial species).

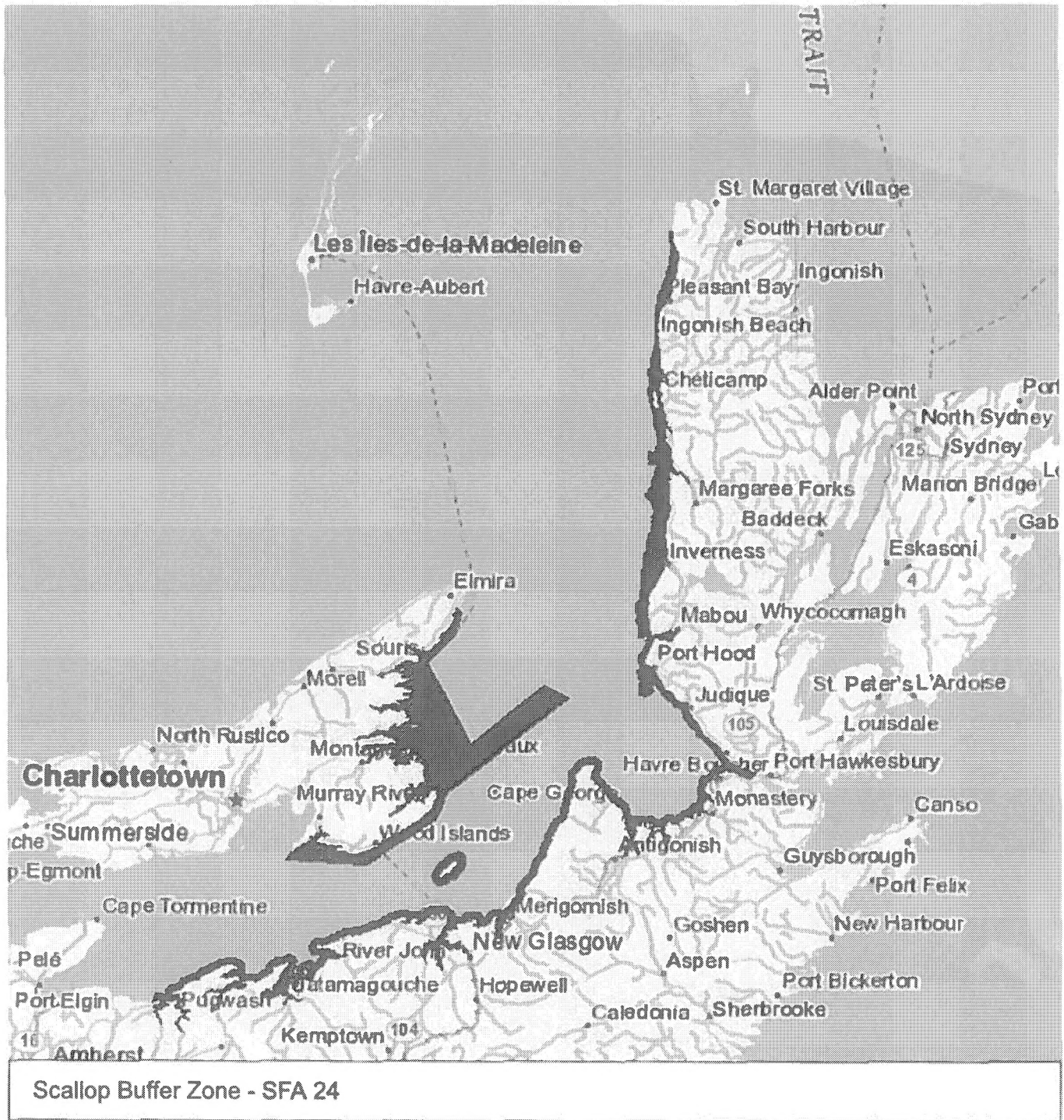




Scallop Buffer Zone - SFA 22

4/3/2019

Scallop Buffer Zones (SFA 21, 22, 24)



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To: Timothy Sargent
Pour:

Date:

Object: PULP MILL IN NOVA SCOTIA
Objet:

From / De: Rhea King, Regional Director, Aquatic Ecosystems *[Signature]* APR 02 2019

Via: Mary-Ellen Valkenier, Regional Director General, Maritimes Region *[Signature]* APR 02 2019

Additional approvals:

Autre(s) approbation(s):

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Regional Director General
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AVP
APP 03 2019



Material for the Minister
Documents pour le Ministre



Your Signature
Votre signature



Information

Remarks: This briefing note was developed in consultation with the following
Remarques: regions/sectors:

Policy & Economics (Maritimes Region)

Distribution: Please indicate name of people to receive a copy and if prior or following the DM approval.

Jill Currie (following DM approval)

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